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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|----------------------------|------------------------|
| 10/531,497 | 12/30/2005 | Allan Dolph Meyer | GRANT-013 | 8653 |
| 7550 Mark A Wilson Wilson & Ham 2530 Berryessa Road San Jose, CA 95132 | | | EXAMINER PATEL, NIHIR B | |
| | | | ART UNIT 3772 | PAPER NUMBER |
| | | | MAIL DATE 10/29/2008 | DELIVERY MODE PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/531,497

Applicant(s)

MEYER ET AL.

Examiner

NIHIR PATEL

Art Unit

3772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07.21.2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-36 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 19-27 and 33 is/are rejected.
7) ☒ Claim(s) 28-32 and 34-36 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed on July 21st, 2008 have been fully considered but they are not persuasive. The applicant argues that Hinestroza does not disclose a seal between the capsule and the door portion. The examiner disagrees with the applicant's argument. Hinestroza teaches an apparatus wherein the door portion 42 is curved to match the contour of an inner surface of the capsule 40 and the door portion 42 is slidable along the inner surface of the capsule (see col. 4 lines 30-40). Hinestroza further teaches that comprises an air tube layer 44 that forms the inner surface of the capsule indicating that Hinestroza does teach a seal between the capsule 40 and the door portion 42. The applicant also argues that Hinestroza does not teach a pressure/hyperbaric capsule. The examiner disagrees with the applicant's argument. As stated in the previous office action the oxygen tank implies that the capsule is under hyperbaric pressure when the canopy is in the closed position.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims **19, 20 and 33** are rejected under 35 U.S.C. 102(b) as being anticipated by Hinestroza (US 6,224,018).
4. **As to claim 19**, Hinestroza teaches an apparatus comprises an elongate base molding which forms a forward facing chair **20** (see **figures 1 and 2; col. 3 lines 55-60**) for a user, the

chair having a seat **21** (see figures 2 and 3; col. 2 lines 55-60) and a back rising from the seat **22** (see figures 2 and 3; col. 2 lines 55-60), the base molding having a front portion that extends forward of the chair seat at user foot level (see figures 2 and 3), and a rear portion that extends upwardly above the back of the chair and above user head level (see figures 2 and 3), the base molding defining a peripheral seal-line **45** that extends around the front portion and along each side of the chair around the rear portion (see figure 4; col. 4 lines 35-45), an elongate canopy extends forward and downward from above user head level at the back portion of the base to the front of the base (see figures 2 and 3), the canopy having an elongate transparent window is formed therein (see page 4 lines 35-45), the canopy configured to be movable between an open position (see figures 2 and 3), where a user can freely move to the chair from the side of the capsule, and a closed position where a seated user is fully enclosed by the base and the canopy (see column 4 lines 25-40), the canopy defines a peripheral seal-line that is adapted to engage with the base seal-line to form an air tight seal between the canopy and the base when the canopy is in the closed position (since it has a seal; the capsule inherently it is considered to be air tight); pressurizing means **27** for pressuring the capsule when the canopy is in the closed position; and a pressure regulator configured to operatively regulate pressure inside the capsule when the canopy is in the closed position.

5. As to claim **20**, Hinestroza teaches an apparatus comprises the canopy has a convex external surface that is curved both front to back and side to side (see figure 3), the window also has a convex outer external surface that is curved from front to back and side to side and the window extends at least from user head level to the level of the seat of the chair, when the canopy is closed (see figure 3).

6. **As to claim 33**, Hinestroza teaches an apparatus having oxygen supply means 27 adapted to supply oxygen gas at hyperbaric pressure to a user within the capsule, the oxygen supply means including a face mask by which oxygen enriched air can be supplied to a user seated and enclosed within the capsule (see col. 3 lines 60-67).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. Claims 21-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hinestroza (US 6,224,018) in view of Haynes (US 4,828,207).

10. **As to claims 21-27**, Hinestroza substantially discloses the claimed invention; see rejection of claim 19 above, but does not disclose latching means operable from both within and outside the capsule is provided for securing the canopy to the base when the canopy is in the closed position to permit pressurization of the capsule, and for releasing the canopy from the

base for movement to open position wherein the latching means comprises a plurality of latches spaced around the peripheral seal line of the base, a plurality of latch pins spaced around the peripheral seal line of the canopy for engagement by respective ones of the latches, inside actuator means operable from the capsule when the canopy is in the closed position to secure and release all the latches in unison, and outside actuator means operable from the outside the capsule when the canopy is in the closed position to secure and release all the latches in unison.

Haynes teaches an apparatus that does provide latching means (**see column 7 lines 1-25**) operable from both within and outside the capsule is provided for securing the canopy to the base when the canopy is in the closed position to permit pressurization of the capsule, and for releasing the canopy from the base for movement to open position wherein the latching means comprises a plurality of latches spaced around the peripheral seal line of the base (**see column 7 lines 1-25**), a plurality of latch pins spaced around the peripheral seal line of the canopy for engagement by respective ones of the latches, inside actuator means operable from the capsule when the canopy is in the closed position to secure and release all the latches in unison, and outside actuator means operable from the outside the capsule when the canopy is in the closed position to secure and release all the latches in unison (**see column 7 lines 1-25**). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Hinestroza's invention by providing latching means operable from both within and outside the capsule is provided for securing the canopy to the base when the canopy is in the closed position to permit pressurization of the capsule, and for releasing the canopy from the base for movement to open position wherein the latching means comprises a plurality of latches spaced around the peripheral seal line of the base, a plurality of latch pins spaced around the

peripheral seal line of the canopy for engagement by respective ones of the latches, inside actuator means operable from the capsule when the canopy is in the closed position to secure and release all the latches in unison, and outside actuator means operable from the outside the capsule when the canopy is in the closed position to secure and release all the latches in unison as taught by Haynes in order to provide a better air tight seal.

Allowable Subject Matter

11. Claims **28-32 and 34-36** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art does not disclose gas struts that are fitted between the canopy and the base on each side of the front portion of the base to counterbalance a weight of the canopy when open or when being opened.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NIHIR PATEL whose telephone number is (571)272-4803. The examiner can normally be reached on 7:30 to 4:30 every other Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on (571) 272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nihir Patel/
Examiner, Art Unit 3772

/Patricia Bianco/
Supervisory Patent Examiner, Art Unit 3772

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